United Nations CRC/C/IND/CO/3-4

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the combined third and fourth periodic reports of India*

1. The Committee considered the combined third and fourth periodic reports of India (CRC/C/IND/CO/3-4) at its 1885th and 1886th meetings (see CRC/C/SR.1885 and 1886), held on 2 and 3 June 2014, and adopted, at its 1901st meeting, held on 13 June 2014, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the combined third and fourth periodic reports of the State party and the written replies to the list of issues (CRC/C/IND/Q/3-4/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses great appreciation for the positive dialogue held with the multisectoral delegation of the State party.

II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the adoption of the following legislative measures:

(a) The National Food Security Act, on 10 September 2013;

(b) The Protection of Children from Sexual Offences Act, on 14 November 2012;

(c) The Right of Children to Free and Compulsory Education Act, in August 2009.

4. The Committee also notes with appreciation the ratification of:

(a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in November 2005;

(b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in August 2005;

* Adopted by the Committee at its sixty-sixth session (26 May–13 June 2014).

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(c) The Convention on the Rights of Persons with Disabilities, in October 2007;

(d) The Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air, which supplement the Convention against Transnational Organized Crime, in May 2011.

5. The Committee also welcomes the following institutional and policy measures:

(a) The National Early Childhood Care and Education Policy, on 27 September 2013;

(b) The National Policy for Children, on 26 April 2013.

6. The Committee notes as positive the standing invitation extended by the State party to United Nations special procedures, in 2011.

III. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44 (6) of the Convention)

The Committee's previous recommendations

7. While welcoming the State party's efforts to follow up the Committee's concluding observations of 2004 on its second periodic report (CRC/C/15/Add.228), the Committee notes with regret that some of the recommendations contained therein have not been fully addressed.

8. **The Committee urges the State party to take all necessary measures to address the recommendations contained in the concluding observations on its second periodic report under the Convention that have not been implemented or only partly addressed, particularly those relating to non-discrimination, adoption, harmful practices, sexual exploitation, education, health, child labour and the administration of juvenile justice.**

Declaration on article 32

9. The Committee reiterates that it deems the State party's declaration on article 32 of the Convention to be unnecessary.

10. **The Committee urges the State party to consider withdrawing its declaration on article 32 of the Convention, in line with the Committee's previous recommendations (CRC/C/15/Add.115, para. 66 and CRC/C/15/Add.228 para. 8).**

Legislation

11. The Committee notes that since the consideration of its second periodic report (CRC/C/93/Add.5), the State party has adopted or amended a number of federal laws to strengthen the legislative framework for children's rights. However, the legislation still does not cover the full scope of the Convention. The Committee is concerned that the different levels of authority and competencies within the State party's federal structure have resulted in a differentiated application of the legislation on children's rights and fragmentation and inconsistencies in the implementation of children's rights across the State party.

12. **The Committee recommends that the State party review and revise all of its legislation relating to children to ensure coherent and consistent harmonization of the legislative framework for children's rights at the federal and state levels with the principles and provisions of the Convention. It should ensure that all the laws are applied in the same way to all children in the State party.**

Comprehensive policy and strategy

13. The Committee notes the adoption of the National Policy for Children, in 2013. However, the Committee is concerned that:

(a) The National Plan of Action to implement the policy has not yet been developed;

(b) There is a lack of information on progress at the state and district levels in the development of their respective action plans, in line with the National Policy for Children, and on resources allocated to ensure the effective implementation of the policy.

14. **The Committee urges the State party to:**

(a) Prioritize the development of the National Plan of Action and similar plans, at the state and district levels, containing elements to enable the application of the National Policy for Children at all levels;

(b) Ensure the timely allocation of sufficient human, technical and financial resources for the effective operationalization of the National Policy for Children;

(c) Promote and facilitate the active involvement of children and youth, parents, non-governmental organizations (NGOs) and other interested and relevant bodies.

Coordination

15. The Committee notes that the State party has strengthened the authority and coordinating role of the former Department of Women and Child Development by upgrading it to the full-fledged Ministry of Women and Child Development with increased financial and human resources, and has established the National Coordination and Action Group with the mandate to monitor the implementation of the National Policy for Children. However, the Committee is concerned that those measures have not yet led to better coordination among ministries and departments at all levels to implement policies and programmes relating to children.

16. **The Committee recommends that the State party strengthen its efforts to ensure that the Ministry of Women and Child Development has sufficient authority to coordinate all activities relating to the implementation of the Convention at the inter-ministerial, federal and state levels, and that the National Coordination and Action Group functions effectively at all levels. The State party should ensure that both the Ministry and the Group are provided with the necessary human, technical and financial resources for their effective operation.**

Allocation of resources

17. The Committee notes the State party's efforts to improve the planning and budgetary processes and to increase the budget allocated to schemes and programmes for children. However, the Committee is concerned that budget allocations do not adequately take into consideration child protection needs. It is also concerned at the mismanagement of allocated resources, which is exacerbated by a high level of corruption, and the lack of effective monitoring and evaluation systems.

18. **In the light of its day of general discussion in 2007 on Resources for the Rights of the Child – Responsibility of States and with emphasis on articles 2, 3, 4 and 6 of the Convention, the Committee recommends that the State party:**

(a) Substantially increase budget allocations to all social sectors, in particular education, health and child protection, including earmarked resources for children at the federal and state levels;

(b) Establish a budgeting process with a child rights perspective, which specifies clear allocations for children in the relevant sectors and agencies, including specific indicators and a tracking system;

(c) Establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated for the implementation of the Convention at the federal and state levels;

(d) Take all necessary measures to prevent and combat corruption.

Data collection

19. The Committee is particularly concerned at the scarcity of available data on children between 15 and 18 years and limitations in the type of data collected, which does not cover all areas of the Convention.

20. **In the light of its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child, the Committee urges the State party to expeditiously improve its data collection system. The data should cover all areas of the Convention and should be disaggregated by age, sex, geographic location, ethnic, national and socioeconomic background in order to facilitate analysis of the situation of all children, particularly those in situations of vulnerability. Furthermore, the Committee recommends that the data and indicators be shared among the ministries concerned and used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. In this context, the Committee also recommends that the State party strengthen its technical cooperation with, among others, the United Nations Children's Fund (UNICEF).**

Independent monitoring

21. The Committee notes the establishment in 2007 of the National Commission for the Protection of Child Rights, which includes the establishment of commissions in the states and the union territories, with the mandate to, inter alia, receive complaints from children on violations of their rights. However, the Committee is concerned at the lack of a procedure for the selection of members of the commissions that is fully in line with the Paris Principles; inadequate budget allocations; the lack of autonomy to execute their mandate as independent bodies and at the fact that such commissions do not exist as yet in all states.

22. **Taking into account the Committee's general comment No. 2 (2002) on the role of independent human rights institutions, the Committee recommends that the State party:**

(a) Ensure the independence of the National Commission and of all the other commissions at all levels, including in terms of funding, their mandate and immunities, so as to ensure full compliance with the Paris Principles. To that effect, the Committee recommends that the State party strengthen technical cooperation with, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNICEF;

(b) Expedite the establishment of commissions throughout the State party.

Dissemination and awareness-raising

23. The Committee notes the efforts of the State party to disseminate and raise awareness about the Convention. However, it is concerned at the low level of awareness of the Convention among the public in general and children in particular, and the lack of assessment of the measures taken.

24. **The Committee reiterates its previous recommendations (CRC/C/15/Add.228, para. 24 (a)) and urges the State party to strengthen its efforts to disseminate the Convention and sensitize the public, in general, and children, in particular, about children's rights through awareness-raising programmes, which should include all forms of communication, such as the media, as well as targeted interventions to raise awareness in the most socioeconomically disadvantaged regions, with a view to ensuring that the public in general recognizes children as being subjects of rights. The Committee also recommends that the State party take all necessary measures to ensure the availability of child-friendly versions of the Conventions in local languages.**

Training

25. The Committee is concerned that the State party's efforts to provide training and enhance capacity in relation to children's rights have not been sufficient to cover the demand by all professionals working for and with children.

26. **The Committee reiterates its previous recommendations (CRC/C/15/Add.228, para. 24 (c)) and urges the State party to strengthen its efforts to provide all professionals working for and with children with adequate and systematic training in children's rights, including in particular law enforcement officials, judges, prosecutors, teachers, the media, health workers, social workers, personnel working in all forms of alternative care and migration authorities. In that respect, the State party should, among others, conduct awareness-raising campaigns, develop specific manuals, conduct capacity-building workshops and incorporate children's rights in school curricula.**

Cooperation with civil society

27. The Committee notes with appreciation the State party's coordination with NGOs in various areas of service delivery. However, it is concerned that such cooperation is not systematic and that the State party appears to delegate the provision of services for children to NGOs contracted by the respective states, but does not monitor and evaluate the quality of the services delivered.

28. **The Committee calls on the State party to systematically involve communities and civil society, including non-governmental and children's organizations, in planning, implementing, monitoring and evaluating all State-supported policies, plans and programmes relating to children's rights. It also recommends that the State party take measures to effectively monitor the quality and coverage of services provided to children by NGOs.**

Children's rights and the business sector

29. The Committee is concerned about the forced displacement of a large number of children and their families and the loss of their ancestral lands owing to manufacturing operations, in particular families and children living in the area of the POSCO steel plant and port facilities in the state of Odisha. It is also concerned at the lack of information

about safeguards to guarantee compliance with the Convention and international human rights standards.

30. **In the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and the United Nations Protect, Respect and Remedy Framework, which was unanimously accepted by the Human Rights Council in 2008, the Committee recommends that the State party establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to children's rights. The Committee further recommends that the State party:**

(a) Establish a clear regulatory framework for industries operating in the State party to ensure that their activities do not negatively affect human rights or jeopardize environmental and other standards, especially those relating to children's rights;

(b) Ensure effective implementation by companies, especially industries, of international and national environment and health standards; monitor the implementation of those standards effectively; appropriately sanction and provide remedies for victims when violations occur and ensure that appropriate international certification is sought;

(c) Require companies to undertake assessments of, consultations in relation to and full public disclosure of the environmental, health-related and human rights impacts of their business activities and their plans to address such impacts.

B. General principles (arts. 2, 3, 6 and 12)

Non-discrimination

31. The Committee is concerned at the disparity among different groups of children in access to education, health care, safe water and sanitation and other social services and to the enjoyment of the rights enshrined in the Convention. It is also concerned at the persisting discrimination against children from scheduled castes and scheduled tribes, children with disabilities, children with HIV/AIDS, as well as asylum-seeking and refugee children.

32. **The Committee recommends that the State party:**

(a) Adopt and implement a comprehensive strategy to address all forms of discrimination, including multiple forms of discrimination, against all categories of children in marginalized and disadvantaged situations and ensure adequate human, financial and technical resources to implement it in collaboration with a wide range of stakeholders and involving all sectors of society, with a view to facilitating social and cultural change;

(b) Ensure that children in marginalized or disadvantaged situations, such as children from scheduled castes and scheduled tribes, children with disabilities, children with HIV/AIDS, and asylum-seeking and refugee children, have access to basic services and enjoy their rights under the Convention, and to that end, adopt adequate programmes and assess their results.

33. The Committee is deeply concerned about the pervasive discrimination against girls and women in the State party and the persistent patriarchal attitudes and deep-rooted stereotypes and practices that perpetuate discrimination against girls. The Committee is further concerned that, owing to longstanding traditions and cultural influences that

perpetuate the preference for boys and the unequal status of girls, sex-selective abortions, female infanticide and abandonment of girls remain widespread, resulting in, inter alia, a high male-to-female ratio.

34. **The Committee urges the State party to adopt a comprehensive approach and take effective and systematic action to prevent and combat social, cultural and economic discrimination against girls and women, including taking into account the root causes, social and institutional norms and practices that are inconsistent with the provisions of the Convention and that perpetuate discrimination against girls. The Committee further recommends that the State party:**

(a) Take urgent measures to ensure the achievement of its sex ratio target (950 girls to 1,000 boys) in line with its 12th National Five-Year Development Plan;

(b) Take immediate legal and policy measures to prevent female infanticide and abandonment of girls, including by raising awareness and addressing factors that reinforce cultural norms and practices that discriminate against girls;

(c) Ensure the effective implementation of the Pre-conception and Pre-natal Diagnostic Techniques Act so as to prevent sex-selective abortions and strengthen regulatory mechanisms.

Best interests of the child

35. While noting that the National Policy for Children, 2013, incorporates the principle of the best interests of the child as a guiding principle in all administrative and judicial proceedings, policies and programmes relating to children, the Committee is concerned at the lack of detailed information on measures taken to ensure that, in practice, the right of children to have their best interests taken as a primary consideration is consistently applied by professionals working for and with children in all areas affecting them.

36. **In the light of its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party:**

(a) Develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving those interests due weight as a primary consideration; as well as ensure that such procedures and criteria are disseminated to courts of law, administrative authorities and legislative bodies, public and private social welfare institutions, as well as traditional and religious leaders and the public at large;

(b) Establish effective monitoring and evaluation procedures in that regard.

Respect for the views of the child

37. The Committee welcomes the State party's initiatives, such as the Child Reporters Initiative, to increase children's participation in society, as well as its efforts to increase children's participation in civil proceedings affecting their rights and well-being. However, the Committee is concerned that children are generally not perceived as rights holders by society and that their participation in the public sphere and opportunities to have their voices heard in the family, schools, community and at the central level are insufficient.

38. **In the light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party take measures to strengthen that right in accordance with article 12 of the Convention. The Committee further recommends that the State party:**

(a) Take measures to ensure the effective implementation of legislation recognizing the right of the child to be heard in relevant legal proceedings, including by establishing systems and/or procedures for social workers and courts to comply with the principle;

(b) Conduct research to identify the issues that are most important to children, to hear their views on those issues, to find out how well their voices are heard in family decisions affecting their lives and the channels through which they currently and potentially can have the most influence in national and local decision-making;

(c) Develop toolkits for public consultation on national policy development to standardize such consultation at a high level of inclusiveness and participation, including consulting with children on issues that affect them;

(d) Conduct programmes and awareness-raising activities to promote meaningful and empowered participation by all children in the family, community and schools, including in student council bodies, with particular attention to girls and children in vulnerable situations, and ensure regular assessment and evaluation of these programmes and activities.

C. Civil rights and freedoms (arts. 7, 8 and 13–17)

Birth registration

39. The Committee expresses its concern at the generally low rate of birth registration as well as the disparities in birth registration rates across the State party and the insufficient awareness among the relevant authorities and the population about the importance of universal birth registration. The Committee is also concerned at the discordance between the birth registration rate and the issuance of birth certificates.

40. **The Committee strongly urges the State party to:**

(a) Expedite the adoption of the amendments to the Registration of Births and Deaths Act, 1969; make it accessible to the population; and guarantee both birth registration and prompt issuance of birth certificates;

(b) Take all necessary measures to increase the birth registration rate, including by establishing mobile registration offices in particular in rural areas and undertaking a campaign aimed at registering all children who have not yet been registered and who do not have birth certificates;

(c) Promote awareness of the importance of birth registration among parents and relevant authorities through regular mass campaigns and provide information on the procedures for birth registration and the rights and entitlements deriving from birth registration.

Right to identity

41. The Committee is deeply concerned about the operation of Cradle Baby Reception Centres that allow for the anonymous abandonment of children in several regions of the State party, in violation of, inter alia, articles 6 to 9 and 19 of the Convention.

42. **The Committee urges the State party to take all necessary measures to end the practice of anonymous abandonment of children and to strengthen and promote alternatives as soon as possible. Furthermore, the Committee urges the State party to increase its efforts to address the root causes of abandonment of infants, including by providing family-planning services, adequate counselling and social support for**

unplanned pregnancies, and taking measures to prevent abandonment of infants due to gender or disability or lack of acceptance of children born out of wedlock.

Nationality

43. The Committee is concerned about the statelessness of children born in villages situated in border areas between the State party and Pakistan, such as children belonging to the Kutchi community, and the consequent limitation of their rights in all areas covered by the Convention.

44. **The Committee urges the State party to take all necessary measures to provide children belonging to those communities with a nationality, in line with article 7 of the Convention, and consider ratifying the Convention relating to the Status of Stateless Persons.**

Freedom of thought, conscience and religion

45. The Committee is concerned that, although the Constitution of the State party guarantees the right to freedom of religion, the law does not allow children to choose a religion different from that of their parents.

46. **The Committee recommends that the State party take all appropriate measures to ensure that every child, regardless of his or her parents' religion, has the right to enjoy freedom of religion.**

D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

Corporal punishment

47. The Committee notes the legal prohibition of corporal punishment in all educational and care institutions. However, it remains concerned that:

(a) Such prohibition in educational institutions only applies to children between 6 and 14 years;

(b) Corporal punishment is still lawful in non-institutional care settings;

(c) Corporal punishment as a disciplinary measure and as a sentence for a crime is not prohibited throughout the State party;

(d) Despite the State party's efforts, corporal punishment continues to be widely used within the family, alternative care and school settings and within the penal system.

48. **With reference to the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:**

(a) Explicitly prohibit all forms of corporal punishment of children under 18 years in all settings throughout its territory;

(b) Introduce comprehensive and continuous public education, awareness-raising and social mobilization programmes, involving children, families, communities and traditional and religious leaders, on the harmful effects, both physical and psychological, of corporal punishment, with a view to changing the general attitude towards this practice;

(c) Ensure that legal proceedings are systematically initiated against those responsible for ill-treating children and that they are duly prosecuted;

(d) Promote positive, non-violent and participatory forms of child-rearing and discipline;

(e) Strengthen existing complaints mechanism with a view to ensuring that they are confidential and child-friendly.

Abuse and neglect

49. The Committee reiterates its great concern at reports of widespread violence, abuse, including sexual abuse, and neglect of children in the State party (CRC/C/15/Add.228, para. 50), including in the family, alternative care institutions, schools and the community. It expresses serious concern that:

(a) Under the Criminal Law (Amendment) Act, 2013, sexual abuse of married girls over the age of 15 is not a criminal offence, which is inconsistent with the Protection of Children from Sexual Offences Act, 2012;

(b) According to data available, one in three rape victims in the State party is a child and 50 per cent of the abusers are persons known to the child or persons in a position of trust and responsibility;

(c) Most cases of child sexual abuse are not reported out of fear of social stigma and there is no information on the rate of prosecution of cases reported;

(d) Child-sensitive treatment and professional examination services for child victims of sexual abuse are inadequate.

50. **In line with its previous recommendations (CRC/C/15/Add.228, para. 51), the Committee urges the State party to:**

(a) Ensure that all forms of sexual abuse of girls under 18 years of age, including marital rape, are fully criminalized.

(b) Further strengthen and promote awareness-raising and education programmes and campaigns with the involvement of children, in order to formulate a comprehensive strategy aimed at preventing and combating child abuse, including physical, sexual and emotional abuse, taking into account the gender dimension;

(c) Establish a national database of all cases of violence against children with special emphasis on sexual abuse and corporal punishment in all settings, in particular schools, and undertake a comprehensive assessment of the extent, causes and nature of such violence;

(d) Establish mechanisms, procedures and guidelines to ensure mandatory reporting all of cases of child sexual abuse and take necessary measures to ensure the proper investigation, prosecution and punishment of perpetrators;

(e) Conduct awareness-raising activities to prevent child sexual abuse and address stigmatization of victims of sexual abuse and put in place an effective reporting system, which is accessible and child-friendly.

Harmful practices

51. The Committee is deeply concerned at the high prevalence of child marriages in the State party, despite the enactment of the Prohibition of Child Marriage Act, 2006. The Committee is concerned at barriers impeding the full implementation of the Act, such as the prevalence of social norms and traditions, the existence of different Personal Status Laws

establishing their own minimum age for marriage applicable to their respective religious community and the lack of awareness of the Act by law enforcement officers. The Committee is also concerned about the prevalence of other harmful practices that are detrimental to girls, such as dowries and the practice of devadasi.

52. **The Committee urges the State party to ensure the effective implementation of the Prohibition of Child Marriage Act, 2006, including by emphasizing that the Act supersedes the different religious-based Personal Status Laws. The Committee also recommends that the State party take the necessary measures to combat the requirement of dowries, child marriage and the practice of devadasi, including by conducting awareness-raising programmes and campaigns with a view to changing attitudes and instituting counselling and reproductive education, with a view to preventing child marriages, which are harmful to the health and well-being of girls.**

Helpline

53. The Committee notes that a 24-hour helpline for children is being run by the State party in collaboration with Childline India Foundation. However, the Committee is concerned that the helpline is not accessible to all children at the national level.

54. **The Committee recommends that the State party ensure that the 24-hour helpline is available free-of-charge to all children at the national, state and district levels. The Committee further recommends that the State party raise awareness among children on how to access the helpline; provide the necessary human, technical and financial resources for the effective functioning of the service; and ensure feedback, including advice and counseling, information on referral services and rescue operations when necessary.**

E. Family environment and alternative care (arts. 5, 9–11, 18 (1 and 2), 20, 21, 25 and 27 (4))

Children deprived of a family environment

55. While welcoming the National Early Childhood Care and Education Policy of 2013, which is intended to enable parents to better take care of young children, the Committee is concerned that its implementation has not yet been launched. The Committee is further concerned about the lack of a national strategy and programmes to support parents and families in fulfilling their child-rearing obligations, as well as the lack of family counselling and parenting programmes, which increase the risk of neglect, maltreatment and abuse of children within the family. The Committee notes the State party's efforts to improve the alternative care system, but is concerned that institutionalization is still dominant in the State party, instead of family-based care. The Committee is also concerned at:

(a) The lack of disaggregated data on children in need, children provided with services and in different forms of alternative care, support services for parents and kinship caregivers, abandonment, neglect and abuse of children and measures adopted, other than legislation;

(b) The lack of information on the assessment, selection, training, remuneration and supervision of foster parents and kinship caregivers, review procedures for children in care, as well as accreditation, minimum requirements for and supervision of children's homes and a complaint mechanism for children in public care, including State, private, NGO- or church-run facilities.

56. **Recalling the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex), the Committee emphasizes that financial and**

material poverty, or conditions directly imputable thereto, should not be the sole justification for removing a child from parental care. The Committee recommends that the State party:

(a) Establish adequate support services for parents, as well as adopt and implement awareness-raising and training programmes on parenting skills, including on alternatives to corporal punishment;

(b) Support and facilitate family-based care for children wherever possible and establish a system of kinship care and foster care for children in alternative care, with a view to reducing the institutionalization of children;

(c) Ensure adequate safeguards and clear criteria, based on the needs as well as the best interests of the child, for determining whether a child should be placed in alternative care;

(d) Ensure independent and periodic review of the placement of children in foster care and institutions, and monitor the quality of care therein, including by providing accessible channels for reporting, monitoring and remedying maltreatment and abuse of children;

(e) Ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services in order to facilitate the quality of rehabilitation and social reintegration of children resident therein to the greatest extent possible.

Adoption

57. The Committee welcomes the issuance of the Guidelines Governing the Adoption of Children, 2011. However, it is concerned that:

(a) Adoptions continue to take place informally in the State party and there is no supervision of adoption procedures;

(b) Different pieces of legislation are in force with respect to adoption and there are inconsistencies among them as well as legal loopholes in the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, with respect to the finalization of an adoption deed;

(c) There is no legislation on adoption of children and families in general, regardless of ethnic and religious affiliation;

(d) Commercial use of surrogacy, which is not properly regulated, is widespread, leading to the sale of children and the violation of children's rights.

58. **The Committee recommends that the State party:**

(a) Review its legislation on adoption with a view to bringing it into line with the Convention on the Rights of the Child and the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993);

(b) Ensure the effective implementation of the Guidelines Governing the Adoption of Children, 2011; establish effective monitoring mechanisms and accreditation of all individuals and entities dealing with adoption either directly or as intermediaries; consider limiting their number and ensure that domestic and inter-country adoption processes do not result in financial gains to any party;

(c) Ensure that the best interests of the child are given paramount consideration during the entire adoption process, the child's view is taken into

account to the greatest extent possible, with due regard to the child's age and maturity;

(d) Ensure that the Assisted Reproductive Technology (Regulation) Bill, 2013, or other subsequent legislation contain provisions which define, regulate and monitor surrogacy arrangements and criminalizes the sale of children for the purpose of illegal adoption, including the misuse of surrogacy. The State party should ensure that action is taken against all those who have engaged in illegal adoptions.

Children of incarcerated parents

59. The Committee notes that children under the age of 6 years can live with their mothers in prison and that the State party has recently introduced a scheme to provide financial help to children of prisoners. However, it is concerned that the best interests of the child are not always taken into account, including when sentencing parents.

60. **The Committee recommends that the best interests of the child be taken into account as a primary consideration when sentencing parents and that sentences for parents which lead to separation from their children be avoided as far as possible. It also recommends that the State party give due consideration to the child's best interests when deciding whether the child should live with his or her incarcerated parent. In doing so, due consideration to the overall conditions of the prison context and the particular need for parent-child contact during early childhood should be taken into full account, with the option of judicial review.**

F. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1–3) and 33)

Children with disabilities

61. The Committee is deeply concerned at the high rate of abandonment of children with disabilities by their parents. It is further concerned at the lack of coordination among relevant ministries in planning and implementing programmes for children with disabilities as well as at the State party's approach to children with disabilities, which is mostly centred on institutional care and medical treatment.

62. **In the light of article 23 of the Convention and of the Committee's general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability and specifically recommends that it:**

(a) Develop a national plan of action for children with disabilities which integrates all the provisions of the Convention as well as indicators to measure outcomes and ensure effective coordination among relevant ministries for its implementation;

(b) Allocate adequate human, technical and financial resources to support parents of children with disabilities with the aim of preventing the abandonment of children with disabilities;

(c) Take adequate measures to ensure that children with disabilities fully enjoy their rights as enshrined in the Convention, including access to education, health care and social services;

(d) Conduct awareness-raising and educational campaigns targeting children with disabilities, the public at large and specific groups of professionals, with

a view to preventing and eliminating discrimination against children with disabilities throughout the State party.

Health and health services

63. The Committee notes the various policies and programmes in place in the State party to improve children's health and their access to health services. However, it is deeply concerned about the persistence of disparities in the quality of and access to health services between urban and rural areas as well as the State party's increasing reliance on the private sector to provide health services. It is also concerned about the high cost of health services for the population and the lack of regulation of the quality of services provided. The Committee is also concerned at:

(a) The high neonatal mortality rates and the fact that these deaths represent 50 per cent of the 1.4 million children under 5 years who die annually in the State party;

(b) The high rate of maternal mortality, despite the various initiatives taken by the State party and the fact that 55.3 per cent of women between 15 to 49 years have anaemia, a condition that leads to low birth weight in babies;

(c) The high levels of chronic malnutrition (stunting), wasting (acute malnutrition) and underweight among children, in particular children under 5 years, which are closely linked to maternal undernutrition and anaemia and inadequate feeding practices of infants and young children;

(d) The fact that only 46 per cent of children under six months are exclusively breastfed and only 24 per cent of children are breastfed within one hour of their birth. That situation implies the use of infant formula and the related negative impact on the health status of infants;

(e) The low improvement in the immunization rate and the fact that only 21 per cent of children are fully vaccinated;

(f) The prevalence of communicable diseases among children, such as acute respiratory infections, diarrhoea and fever, including fever linked to malaria, all of which are the leading causes of child morbidity and mortality;

(g) Insufficient access to safe water, sanitation and hygiene, in particular in rural areas, along with the widespread practice of open defecation and its negative impact on the health of children (around 88 per cent of diarrhoea deaths among children under 5 years are linked to these factors).

64. **In the light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, the Committee recommends that the State party:**

(a) Strengthen its efforts to address, as a matter of urgency, the existing disparities in access to and quality of health services, including by establishing partnerships with the private sector so as to increase access to, and affordability of, health services and by regulating the services that they provide;

(b) Ensure that appropriate resources are allocated to the health sector, with particular attention to specific maternal and child health-care policies, programmes and schemes to improve the health situation of children, in particular to respond to the high rates of acute respiratory infections, malnutrition and diarrhoea;

(c) Ensure the effective implementation of the National Food Security Act, 2013, which contains provisions aimed at combating children's undernourishment;

(d) Enhance efforts to promote exclusive breastfeeding practices, including breastfeeding from birth, complementary feeding strategies, with or without provision of food supplements, as well as micronutrient interventions for mothers; ensure the effective implementation of, and compliance with, the International Code of Marketing of Breast-milk Substitutes (WHO, 1981); put in place a monitoring and reporting system to identify violations of the Code and take stringent measures in all situations of violations of the Code, which include the promotion and distribution of infant formula samples and promotional materials by private-sector companies involved in the marketing and distribution of infant formula;

(e) Ensure full vaccination of all children;

(f) Conduct awareness-raising campaigns targeting the public at large on the health risks of the practice of open defecation; take measures to ensure access to safe water and sanitation, in particular in rural and the poorest areas, and invest in improving safe water resources;

(g) Strengthen technical cooperation with UNICEF and the World Health Organization (WHO), among others, in that regard.

Adolescent health

65. The Committee notes that the State party has adopted a strategy on Adolescent Reproductive and Sexual Health, however, it is concerned at the scarcity of information with respect to its implementation and impact on the health of adolescents throughout the country. The Committee is seriously concerned at the lack of access to sexual and reproductive information and services, including modern contraception methods, by adolescent girls and the consequent high rate of teenage pregnancies, widespread use of female sterilization and unsafe abortions in the State party.

66. **Referring to its general comment No. 4 (2003) on adolescent health, the Committee recommends that the State party:**

(a) Ensure the effective implementation of the strategy on Adolescent Reproductive and Sexual Health and that sexual and reproductive health education is part of the mandatory school curriculum and targeted at adolescent girls and boys, with special attention on preventing early pregnancy and sexually transmitted infections;

(b) Take measures to ensure that adolescent girls and boys have effective access to confidential sexual and reproductive health information and services, such as modern contraception and legal abortions for girls, in practice. In that context, the State party should guarantee that the views of pregnant teenagers are always heard and respected in abortion decisions;

(c) Take measures to raise awareness of and foster responsible parenthood and sexual behaviour, with particular attention to boys and men, including access to life skills and the prevention of substance abuse.

HIV/AIDS

67. The Committee notes the adoption of the Policy Framework for Children and AIDS, in 2007; however, it is concerned that a significant number of HIV/AIDs infected people in the State party are children and that there is a lack of information with respect to the provision of antiretroviral for those children. The Committee is also concerned at the non-identification of a large number of HIV-positive pregnant women owing to the limited coverage of antenatal care services, access to counselling and testing, which increases the risks of children to be infected.

68. **In the light of its general comment No. 3 (2003) on HIV/AIDS and the rights of the child, the Committee recommends that the State party:**

(a) Adopt the HIV/AIDs Bill that has been pending since 2006 and ensure that it contains specific provisions addressing the needs of children infected with HIV/AIDS, in line with the Convention;

(b) Sustain the measures in place to prevent mother-to-child transmission of HIV/AIDS and develop a roadmap to ensure the implementation of effective preventive measures;

(c) Improve follow-up treatment for HIV/AIDS-infected mothers and their infants to ensure early diagnosis and early initiation of treatment;

(d) Improve access to quality, age-appropriate HIV/AIDS, sexual and reproductive health services;

(e) Improve access and coverage of antiretroviral therapy and prophylaxis for HIV-infected pregnant women and children;

(f) To that effect, strengthen technical cooperation with, inter alia, the Joint United Nations Programme on HIV/AIDS (UNAIDS) and UNICEF.

Standard of living

69. The Committee is concerned at the high percentage of people living below the poverty line, despite the gross domestic product (GDP) growth in the State party. It is concerned at the prevalence of poverty among children, in both urban and rural areas, as well as the large disparities in the standard of living among children, with children in disadvantaged and marginalized situations being particularly vulnerable.

70. **The Committee recommends that the State party:**

(a) Take all necessary measures to combat poverty;

(b) Take all necessary measures to eliminate urban/rural, social, caste and tribe-based disparities in children's standard of living through, inter alia, social protection and targeted programmes for children and families who are particularly vulnerable to poverty;

(c) Consider holding focused consultations with families, children and children's rights civil society organizations on the issue of child poverty, with a view to strengthening the strategies and measures for fulfilling children's rights in its 12th National Five-Year Development Plan.

G. Education, leisure and cultural activities (arts. 28, 29, 30 and 31)

Education, including vocational training and guidance

71. The Committee welcomes the adoption of the Right of Children to Free and Compulsory Education Act, 2009, and the almost-universal enrolment rate of children in Grade 1. However, it is concerned at the high drop-out rates, in particular among children from the scheduled castes and scheduled tribes and girls. The Committee is also concerned about the large number of children who are not in school, the high drop-out rates at Grade 5, poor numeracy and literacy skills, the low quality of education, as well as the shortage of qualified teachers and classrooms.

72. **The Committee recommends that the State party:**

(a) Strengthen its efforts to fully implement the Right of Children to Free and Compulsory Education Act, 2009, at the federal and state levels, including by, inter alia, drawing up development plans for schools, in compliance with the Act;

(b) Take the necessary measures to improve the quality of education and provide adequate training for teachers, in particular at the state level and in rural areas;

(c) Introduce child-rights education in the school curricula nationwide;

(d) Address various discriminatory practices in the education setting, such as forcing children in marginalized situations to sit at the back of the classroom;

(e) Improve preparedness for schooling and expansion of programmes on early childhood education;

(f) Further adopt specific programmes aimed at decreasing the high drop-out rates and ensure that out-of-school children, child labourers, children in disadvantaged and marginalized situations, as well as girls, are supported and assisted in exercising their right to education;

(g) Improve data and information systems to track out-of-school children, measure quality and learning outcomes and correlate education and child protection data for effective planning and response;

(h) Take measures to increase access by adolescents to secondary education, and develop and promote quality vocational training for children who have dropped out of school to enhance the skills of children.

73. The Committee expresses its serious concern about attacks on school facilities by non-State armed groups and the occupation of schools by the security forces.

74. **The Committee urges the State party to use all means to protect schools, teachers and children from attacks, and include communities in the development of measures to better protect schools against attacks and violence. It also urges the State party to prohibit the occupation of schools by its security forces and to urgently rehabilitate and repair damaged schools as necessary.**

Early childhood development

75. While noting with appreciation the adoption of the National Early Childhood Care and Education Policy in September 2013, the Committee is concerned that the **Right of Children to Free and Compulsory Education Act, 2009,** does not require the provision of early childhood care and education, and that the Policy has not yet been implemented.

76. **The Committee recommends that the State party incorporate early childhood care and education into the Right of Children to Free and Compulsory Education Act as part of the education system, in compliance with the National Early Childhood Care and Education Policy, and allocate sufficient resources for the implementation of the policy at all levels, with the aim of ensuring universal, high-quality early childhood education and care services to all 0 to 6-year-old children.**

H. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d), 38–40)

Asylum-seeking and refugee children

77. The Committee welcomes several measures taken by the State party, such as the decisions to allow refugees to apply for long-term visas and work permits and to simplify the procedures for acquisition of citizenship for Hindu and Sikh refugees. However, the Committee is concerned at reports of hardships faced by asylum-seeking and refugee children in accessing services, for instance due to language barriers; discrimination against asylum-seeking and refugee children in schools by teachers and classmates, as well as in health services facilities; and limitations on the right to play in public spaces due to discriminatory attitudes. The Committee is further concerned at reports that Rohingya asylum seekers from Myanmar, including children, are routinely detained because of illegal entry into the State party.

78. **In line with its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, the Committee recommends that the State party:**

(a) Strengthen existing child protection systems, including the Integrated Child Protection Scheme, with the aim of identifying and providing assistance to children in need of protection, especially unaccompanied refugee and asylum-seeking children;

(b) Guarantee refugee and asylum-seeking children access to education and health care, including by taking measures to eliminate societal barriers and discrimination against them;

(c) Release asylum-seeking and refugee children held in detention and enable them to access the Office of the United Nations High Commissioner for Refugees (UNHCR); ensure that unaccompanied and separated children, refugee and asylum-seeking children are not detained because of illegal entry/stay in the State party; and grant them the right to seek asylum and to stay in the State party until the completion of asylum procedures;

(d) Establish a proper referral system under the Ministry of Home Affairs to refer refugee and asylum-seeking children to UNHCR, and develop standard operating procedures to facilitate the prompt identification and referral of such children;

(e) Consider acceding to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.

Children belonging to religious minorities, scheduled castes and scheduled tribes

79. The Committee is seriously concerned that, despite the State party's initiatives aimed at addressing inequalities and improving living conditions and access to education, health and social services of religious minorities, scheduled castes and scheduled tribes, many children belonging to these groups continue to be deprived of a number of their rights under the Convention.

80. **The Committee urges the State party to strengthen its efforts to ensure that all children, irrespective of their religious background or whether they are from a scheduled caste or scheduled tribe, enjoy the entire range of rights enshrined in the Convention.**

Economic exploitation, including child labour

81. The Committee reiterates its serious concern that, despite some efforts made by the State party, there is still a large number of children involved in economic exploitation, including child labour in hazardous conditions, such as in mining, bonded labour in the informal sector as domestic servants and in agriculture (CRC/C/15/Add.228, para. 72).

82. **In line with its previous recommendations (CRC/C/15/Add. 228, para. 73), the Committee recommends that the State party:**

(a) Expedite the adoption of the Child Labour (Prohibition and Regulation) Amendment Bill, 2012, and develop a comprehensive strategy to prevent and eliminate all forms of child labour, including imposing sanctions against individuals involved in child labour, including establishing a database on the types and extent of child labour, most of which occurs in the informal sector, such as domestic work, but also in mining and quarries, which constitutes hazardous work;

(b) Consider ratifying International Labour Organization (ILO) Conventions No. 138 concerning Minimum Age for Admission to Employment, No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and No. 189 concerning Decent Work for Domestic Workers;

(c) Develop technical cooperation with the ILO International Programme on the Elimination of Child Labour, in this regard.

Children in street situations

83. The Committee notes that the State party's Integrated Programme for Street Children has benefited a number of children. However the Committee is deeply concerned at the limited impact of the programme, given the large number of children in street situations in the State party and the fact that a number of those children are treated as criminals, instead of being considered as victims.

84. **The Committee recommends that the State party:**

(a) Develop and implement, based on a systematic assessment of the situation of children in street situations and with the active involvement of the children themselves, a comprehensive policy to address the root causes of the phenomenon, with a view to preventing and reducing it;

(b) Avoid treating children in street situations as criminals;

(c) In coordination with NGOs, provide children in street situations with the necessary protection, including a family environment, adequate health-care services, social services and the possibility of attending school, and allocate the necessary human and financial resources for those purposes;

(d) Support family reunification programmes when that is in the best interests of the child.

Sale, trafficking and abduction

85. The Committee notes the adoption of the Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation, Re-integration and Repatriation of Victims of Trafficking for Commercial Sexual Exploitation, in December 2007. However, it is concerned at the high levels of internal trafficking of children and that the State party is a source, destination and transit country for trafficking children for labour and sexual exploitation, including sex tourism and child pornography. The Committee is concerned at

reports that children are being trafficked in the State party for begging, marriage and illegal adoption. The Committee expresses its concern at the lack of effective measures to address and prevent the sale, trafficking and abduction of children as well as the lack of data on those activities.

86. **The Committee recommends that the State party:**

(a) Establish a comprehensive and systematic data collection mechanism on the sale, trafficking and abduction of children, and ensure that the data are disaggregated by, inter alia, sex, age, national and ethnic origin, state or autonomous region, rural or urban residence, indigenous and socioeconomic status, with particular attention to children living in the most vulnerable situations;

(b) Conduct awareness-raising activities in order to make parents and children aware of the dangers of both internal and external trafficking;

(c) Further strengthen its cooperation with South Asian countries to combat trafficking in children across States, including through the conclusion of bilateral and multilateral agreements.

Administration of juvenile justice

87. The Committee notes the efforts made by the State party to strengthen the juvenile justice system, including the establishment of Juvenile Justice Boards in 608 of the 660 districts across the State party, and the issuance of the Juvenile Justice Rules in 2007, which establish the minimum age of criminal responsibility at 18 years. However, the Committee is seriously concerned that the minimum age of criminal responsibility is still set at 7 years in the Penal Code, which precludes the application of the Juvenile Justice Rules. It is also concerned at:

(a) Indications that the State party plans to lower the minimum age of criminal responsibility stated in the Juvenile Justice Rules of 2007;

(b) The very limited knowledge, sensitivity and capacity of the staff working at the Juvenile Justice Boards to handle cases involving children in conflict with the law, and the lack of adequate oversight of the Boards;

(c) The inadequacy of the Information Management System to collect data on children in conflict with the law, time spent on pending cases, the general functioning of the Boards, including the nature and quality of orders issued by the Boards, and the role and functioning of the Special Juvenile Police Units;

(d) The lack of age-appropriate separation of children in conflict with the law in Observation Homes (which are intended for temporary reception and upon completion of an inquiry) and Special Homes (for children who have been sentenced), and cases of children in conflict with the law being housed together with children in need of protection.

88. **The Committee urges the State party to bring its juvenile justice system fully into line with the Convention, in particular articles 37, 39 and 40, other relevant standards and the Committee's general comment No. 10 (2007) on children's rights in juvenile justice. In particular, the Committee urges the State party to:**

(a) Give effect to the Juvenile Justice Rules of 2007, which establish the minimum age of criminal responsibility at 18 years, and maintain the minimum age at an internationally acceptable level;

(b) Provide the Juvenile Justice Boards with adequate human, technical and financial resources; designate specialized judges for children and ensure that such specialized judges receive appropriate education and training;

(c) Ensure the provision of qualified, independent, free or subsidized legal and other appropriate assistance to children in conflict with the law, at an early stage of the procedure and throughout the legal proceedings;

(d) Promote alternative measures to detention, such as diversion, probation, mediation, counselling or community service, wherever necessary, and ensure that detention is used as a last resort and for the shortest possible period of time and that it is reviewed on a regular basis with a view to withdrawing it;

(e) In cases where detention is necessary, ensure age-appropriate separation of children in Observation and Special Homes and ensure that children in conflict with the law are not detained together with children in need of protection or with adults, and that detention conditions are compliant with international standards, including with regard to access to education and health services;

(f) To that effect, make use of the technical assistance tools developed by the Interagency Panel on Juvenile Justice and its members, including the United Nations Office on Drugs and Crime (UNODC), UNICEF, OHCHR and NGOs, and seek technical assistance in the area of juvenile justice from members of the Panel.

I. Ratification of international human rights instruments

89. The Committee recommends that the State party ratify the core human rights instruments to which it is not yet a party, such as the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

J. Cooperation with regional and international bodies

90. The Committee recommends that the State party cooperate with, among others, the Association of Southeast Asian Nations (ASEAN) Commission on the Promotion and Protection of the Rights of Women and Children.

K. Follow-up and dissemination

91. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined third and fourth periodic reports, the written replies of the State party and the present concluding observations be made widely available in the languages of the country.

L. Next report

92. The Committee invites the State party to submit its combined fifth and sixth periodic reports by 15 July 2020 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1), and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation of the report for the purposes of consideration by the treaty body cannot be guaranteed.

93. **The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I). The word limit for the common core document is 42,400 words, as established by the General Assembly in its resolution 68/268 (para. 16).**